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Lister, Alesha

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READING VICTORIAN WORKING-CLASS EXPECTATIONS OF FATHERHOOD IN TRIALS OF PATERNAL NEGLIGENCE

*Alesha Lister*¹

Abstract

This article examines the complex dynamics of class and gender in criminal proceedings against men charged with feloniously causing the death of their children through neglect of their paternal duties. The intersection of ideas about respectability, masculinity and fatherhood are explored through a range of archival material generated by trials of men charged with fatally neglecting their children at the Central Criminal Court of London between 1800 and 1913. I argue that the behaviour of men accused of neglect-based homicide not only fell short of middle-class expectations of fatherhood but contravened customary expectations of fatherhood within London's working-class communities. Legal rulings on what did, and did not, constitute paternal negligence amongst London's poor reflected and were shaped by the dynamic interplay of middle-class and working-class ideas about fatherhood.

Keywords: masculinity, respectability, crime, gender, fatherhood, child, homicide.

Introduction

Henry Ockeridge lodged with his wife in apartments within the house of Frederick and Elizabeth Wise on Stewardstone Road, Bethnal-Green. Although Frederick was temperate 'in the general sense', his wife was a confirmed drunkard.² It was not uncommon for the Wise's tenants to overhear Frederick beating his drunken wife for neglecting her motherly and wifely duties. Henry and his wife first observed the shockingly starved and neglected condition of the Wise's baby when called to protect the infant from receiving blows Frederick was laying upon his wife while she cradled the infant to her chest. The Ockeridges admonished their landlords for the baby's dirty, poorly clad, sick and starved condition. For the duration of the baby's six months of life, Emma Ockeridge fed, clothed, washed and procured medical aid for the baby, threatened and admonished his parents, and finally reported the neglect to police. Parish officials, shocked by baby Frederick's fetid skeletal frame, promptly removed him to the Bethnal Green workhouse Infirmary, where he died twelve days later. The Ockeridges were key witnesses in the 1878 criminal trial of Frederick and Elizabeth Wise for the manslaughter of their child. Their testimony established the

¹ Alesha Lister is Lecturer in Sociology, Monash University Alesha.Lister@monash.edu.

² *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 29 Nov 2017), August 1878, Frederick Wise and Elizabeth Wise (t18780806-674).

systematic nature of the neglect and affirmed that sixty-year-old Frederick, a father of twenty-six children, was well aware of his child's deteriorating condition in the months prior to death. Elizabeth pleaded guilty to manslaughter and was sentenced to 15 months imprisonment with hard labour. After prolonged deliberation, the jury found Frederick guilty of manslaughter on the basis that his failure to remedy his wife's negligence was instrumental to his son's death. In recognition of the jury's strong recommendation to mercy, Justice Lindley sentenced Frederick to three months hard labour.

The Ockeridges' condemnation of, and interventions into, their landlords' parenting practices reflect complex gendered ideas about paternal duties amongst London's working classes. Criminal cases such as that of Frederick and Elizabeth Wise highlight the extent to which relational concepts of class and gender were embedded in legislation and common law rulings in felony cases involving paternal negligence. Moreover, close readings of depositions reveal the extent to which members of London's working-class communities were willing to challenge men's paternal authority, particularly in regards to his children's welfare.³ Rather than undermine notions of respectable working-class fatherhood, condemnation of negligent fathers reinforced expectations of fatherly love and its expression through provision and active concern for their children's welfare.⁴ This article analyses a range of contemporary ideas about paternal rights and responsibilities mobilised in felony cases against men accused of fatally neglecting their children tried at the Central

³ This finding resonates with Ginger Frost's analysis of the ways London's poor used middle-class charitable institutions to 'cope with problem families' in the local community in *Victorian Childhoods* (Praeger, 2009) p.153. For discussion of attitudes to child cruelty and neglect within working-class communities in Victorian London, see also George Behlmer, *Friends of the Family: The English Home and Its Guardians, 1850-1940* (Stanford University Press, 1998); Ellen Ross, *Love and Toil: Motherhood in Outcast London, 1870-1918* (Oxford University Press, 1993); Monica Flegel, *Conceptualising Cruelty to Children in Nineteenth Century England: Literature, Representation and the NSPCC* (Ashgate, 2009); Anna Davin, *Growing Up Poor: Home, School and Street in London, 1870 – 1914* (Rivers Oram Press, 1996); Pamela Horn, *The Victorian Town Child* (Sutton Publishing, 1997).

⁴ Excellent studies of fatherhood in Victorian England have demonstrated that working-class models of fatherhood incorporated notions of love, discipline and provision within an often necessarily flexible patriarchal framework that accommodated changing socio-economic dynamics. See in particular Ross, *Love and Toil*; Frost, *Victorian Childhoods*; Megan Doolittle, "'Fatherhood and Family Shame': Masculinity, Welfare and the Workhouse in Late Nineteenth-Century England', in Lucy Delap, Ben Griffin, Abigail Wills (eds.) *The Politics of Domestic Authority in Britain Since 1800* (Palgrave Macmillan, Basingstoke, 2009) pp.84 – 108; Claudia Nelson, *Family Ties in Victorian England* (Praeger, 2007); Julie-Marie Strange, *Fatherhood and the British Working-Class, 1865-1914* (Cambridge University Press, 2015); Julie-Marie Strange, 'Fatherhood, Providing and Attachment in Late Victorian and Edwardian Working-Class Families', *The Historical Journal*, 55 (2012) 1007-1027.

Criminal Court of London between 1800 and 1913.⁵ It examines the relationship between legal and cultural understandings of paternal duties and how ideas about working-class fatherhood were negotiated, reinforced and contested in the Court.

1 Background

A number of important studies have contributed to an increasingly complex and diverse historical understanding of domestic masculinity in nineteenth century England.⁶ These include Julie-Marie Strange's work on working-class fatherhood, Ginger Frost's work on illegitimacy and fatherhood, and the excellent studies of paternal authority presented in *The Politics of Domestic Authority* and all highlight the dynamic nature of working-class fatherhood in Victorian England.⁷ My exploration of the legal and cultural expectations of working-class fatherhood through trials of neglect-based paternal homicide contributes new perspectives on contemporary distinctions between the paternal duty of care and the paternal duty of daily care.

It is well established in the existing literature on child homicide that working-class men and women constituted the vast majority of those charged with child homicide in Victorian England. Differences and similarities in the way the judicial system treated male and female defendants has been explored to some degree in scholarship on maternal child homicide. The work of Margaret Arnot, Ruth Homrighaus and Daniel Grey provide notable insights into the distinctly gendered nature of narratives of child homicide and how men and women's defences diverged sharply in accordance with gender roles and expectations.⁸ This study further reinforces and contributes another

⁵ The study excludes cases in which the victim survived (where attempted homicide was tried as a felony offence, as in the cases of Sidney Clay in 1884 and Thomas Long, George Fletcher Walker and William Jones also in 1884). Multiple indictments for homicide involving the same child victim, defendant and crime are tallied once (as in the case of Charles Beadle, charged twice in 1827 for the murder of William Sheen, the younger) while felony indictments for separate homicide offences perpetrated by the same offender against different children are considered separately (for instance, Thomas George Senior was indicted for the manslaughter of James Senior in 1897 and the manslaughter of Tansy Senior in 1898).

⁶ Stephen Garton identified a trend towards more diverse and expansive explorations of masculinity in historical scholarship in 'Manhandled: Battle Lines in Manliness and Masculinity', *Gender and History*, 20 (2008) 416 – 420.

⁷ Strange, *Fatherhood and the British Working-Class*; Ginger Frost, *Illegitimacy in English Law and Society, 1860 – 1930* (Manchester University Press, 2016; and collected essays in Delap, Griffin, Wills, *The Politics of Domestic Authority in Britain Since 1800*.

⁸ Margaret L. Arnot, 'Gender in Focus: Infanticide in England, 1840–1880', unpublished PhD thesis, University of Essex, 1994; Margaret L. Arnot, 'Infant death, child care and the state: the baby-farming scandal and the first infant life protection legislation of 1872,' *Continuity and Change*, 9 (1994) 271 – 311; Margaret L. Arnot, 'Perceptions of Parental Child Homicide in English Popular Visual Culture, 1800–1850', *Law, Crime and History*, 7 (2017) 16-74; Daniel J. R. Grey, 'Discourses of Infanticide in England, 1880–1922,' unpublished PhD thesis, Roehampton University, 2008; Daniel J. R. Grey, "'More Ignorant and Stupid than Wilfully

perspective to the view that legal and cultural responses to parents who killed their children in Victorian England were underpinned by contemporary expectations of class and gender.

Historical studies of male-perpetrated child homicide have tended to focus upon cases involving paternal child murder. Jade Shepherd's work on paternal filicide and insanity, in particular, provides important analysis upon how contemporary concepts of masculinity and fatherhood were mobilised in and in response to criminal insanity-based defences.⁹ Similarly, Cathryn Wilson's thesis demonstrates the extent to which cultural responses to male-perpetrated child homicide in the late-nineteenth century were underpinned by contemporary ideas about working-class masculinity and fatherhood.¹⁰ In this study I provide a much needed account of cultural and legal paternal negligence across the nineteenth century and explore a different aspect of how masculine ideals were mobilised in trials of paternal child homicide.

2 Prosecuting for Paternal Negligence

This study examines the mobilisation of class and gender in the 59 cases of male-perpetrated child homicide centred on allegations of paternal negligence tried in the Central Criminal Court (hereafter the Court) between 1800 and 1913. These cases are drawn from a broader dataset of all (358) homicide cases tried on a felony indictment involving a male defendant and child victim tried at the Court over the same period.¹¹ The institutional focus of this study is based primarily on the accessibility of the court records and the relatively broad press coverage of trials conducted at the Court. The focus on felony indictments for paternal neglect recognises the different ways paternal neglect was constructed and interpreted as either a misdemeanour or felony offence. The prosecution of paternal negligence as a misdemeanour offence required proof that the alleged negligence was wilful. To

Cruel": Homicide trials and Baby-farming in England and Wales in the Wake of the Children Act 1908,' *Crimes and Misdemeanours*, 3 (2009) 60–77; Daniel J. R. Grey, 'Introduction: The Child at Risk in Modern Britain', *Law, Crime and History*, 7 (2017) 1–15; Ruth Ellen Homrighaus, 'Baby Farming: The Care of Illegitimate Children in England, 1860 – 1943', unpublished PhD thesis, University of North Carolina, 2003.

⁹ Jade Shepherd, "'One of the Best Fathers Until he Went Out of His Mind": Paternal Child-Murder, 1864-1900', *Journal of Victorian Culture*, 18 (2013) 17-35.

¹⁰ Cathryn B. A. Wilson, 'Mad, Sad, or Bad?: Newspaper and Judicial Representations of Men Who Killed Children in Victorian England, 1860 – 1900', unpublished PhD thesis, University of Essex, 2012.

¹¹ In line with key English legislation introduced in the nineteenth century to address child welfare concerns (the Poor Law Amendment Act 1868 and the Prevention of Cruelty to, and Protection of, Children Act 1889), this study defines a child as a person under fourteen years of age.

sustain a felony indictment the Court needed to be satisfied that the neglect was wilful and that the child's life would have been prolonged, or death prevented, if not for the father's negligent behaviour.

Court-generated archival material, press reports, Parliamentary material and Home Office correspondence are drawn upon to parse out issues concerning class and gender within constructions of paternal negligence as a moral and criminal offence. In particular, I highlight the highly contingent nature of Victorian understandings of working-class gender relations that influenced social and juridical responses to men charged with fatally neglecting their children. I argue that expectations of parental behaviour for men and women weighed heavily in criminal proceedings against working-class men accused of fatally neglecting their children. Analysis of depositions from Coroner's inquests and criminal proceedings provide insight into specifically working-class ideals of fatherhood and how poor Londoners' responded to paternal negligence within their communities and interpreted men's culpability within the Court.

Analysis of a range of court-generated archival material highlights the critical roles played by working-class Londoners in the detection and prosecution of child neglect. This particular focus on class and gender sheds new light on how ideas about how expectations of respectable working-class fatherhood were generated from within as well as from above the ranks of London working classes. In particular, it contributes a fresh perspective on how Victorian concepts of working-class masculinity underpinned various interpretations of paternal neglect as a form of homicide within the Court.¹²

¹² Discussion of English juridical responses to male-perpetrated child homicide in the following sources provide an essential context for analysis of responses to paternal negligence as a felony offence: Arnot, 'Gender in Focus'; Arnot, 'Infant death'; Arnot, 'Perceptions of Parental Child Homicide'; Grey, 'Discourses of Infanticide'; Grey, "More Ignorant and Stupid"; Grey, 'Introduction: The Child at Risk in Modern Britain'; Homrighaus, 'Baby Farming'; Carolyn Conley, *Certain Other Countries: Homicide, Gender, and National Identity in Late-Nineteenth Century England, Ireland, Scotland, and Wales* (Ohio State University Press, 2007); Ginger Frost, "'I am Master Here': Illegitimacy, Masculinity and Violence in Victorian England', in Lucy Delap, Ben Griffin, Abigail Wills (eds.) *The Politics of Domestic Authority in Britain Since 1800*, (Palgrave Macmillan, 2009) pp.27-43; Ginger S. Frost, *Illegitimacy*; George Behlmer, *Child Abuse and Moral Reform in England, 1870 – 1908* (Stanford University Press, 1982); Anne-Marie Kilday, *A History of Infanticide in Britain c.1600 to the Present* (Palgrave MacMillan, 2013); Jade Shepherd, "'One of the Best Fathers'"; Josephine McDonagh, *Child Murder and British Culture, 1720-1900* (Cambridge University Press, 2003); Cathryn B. A. Wilson, 'Mad, Sad, or Bad?'; Melissa Valiska Gregory, "'Most Revolting Murder by a Father': The Violent Rhetoric of Paternal Child-Murder in *The Times* (London)' in Jennifer Thorn (ed.) *Writing British Infanticide: Child-Murder, Gender and Print*,

The constant interaction between ideas about masculinity and femininity is evident in legal definitions and juridical interpretations of men's custodial obligations towards children to whom they were affiliated through blood or marriage. For much of the nineteenth century, wives and their children were under the custodial protection of the wife's husband, irrespective of whether the husband was the biological father of the children. According to popular legal treatise, such as Russell's 1848 *Treatise on Crimes and Misdemeanours*, in cases in which a child of marriage died from want of proper care,

the wife is only the servant of the husband ... can only be made criminally responsible by omitting to deliver the food to the child, with which she has been supplied by her husband. The omission to provide food is the omission of the husband, and the crime of the wife can only be the omitting to deliver the food to the child after the husband has provided it.¹³

Under the terms of the Poor Law Amendment Act 1834 and up to 1918, men who sought parish relief for their family forfeited any voting rights they possessed.¹⁴ The exception came with the passage of the Medical Relief Disqualification Removal Act 1885 for men who only received parish-funded medical aid.¹⁵ The Poor Law Amendment Act 1834 virtually abolished outdoor relief for the families of impoverished able-bodied men on the assumption that poverty was primarily the result of men's failings rather than effects of external socio-economic forces. Men who could not provide for their families by their own volition were legally required to take them into the workhouse as wards of the state. Once there, families were divided along the lines of age and gender. These provisions were much maligned by London's poor who objected to the division of the family unit and feared to expose their children to workhouse conditions. Such fears were not without merit. Workhouse conditions were deliberately made worse than living conditions which the poorest labourer of independent means might be able to provide for his family. Pragmatic concerns over men's inability to secure employment while in the workhouse, the ignominy and miserable conditions of the workhouse and fears of disenfranchisement were repeatedly cited in the courtroom defences of men whose children had died of starvation and sickness without their seeking parish relief.

1722-1859 (University of Delaware Press, 2003) pp. 70-90; Katherine Watson, *Poisoned Lives: English Poisoners and the Victims* (Continuum, 2006).

¹³ Sir William Oldnall Russell, *A Treatise on Crimes and Misdemeanours*, 2 vols (Joseph Butterworth, 1848), 1: p.492.

¹⁴ The national franchise was, up to 1918, property based, and local voting rights depended upon rate-payer status, which such men could not hold.

¹⁵ Under the Poor Law Amendment Act 1834, 'all relief afforded in respect of children under the age of 16 shall be considered as afforded to their parents.'

From the 1860s onwards, the failure of individual men to uphold the obligation of familial provision was increasingly subject to legal sanction. The Poor Law Amendment Act 1868 defined the scope of parental criminal liability for child neglect as the wilful omission to 'provide adequate food, clothing, medical aid or lodging' for those children under the age of fourteen years who were in their custody.¹⁶ To sustain a conviction on a felony indictment, the omission had to be both wilful and the direct cause of death. The requirement that a father's failure to provide adequately for his children had to be proven to be both deliberate and the direct cause of death posed considerable a barrier to successful prosecution. Given this onerous burden, it is unsurprising that many cases involving fatal paternal neglect were tried as misdemeanour offences.

Across the nineteenth century, almost a quarter of all child murder cases tried in the Court involved allegations of paternal neglect with significant shifts in the prosecution pattern for fathers accused of fatally neglecting their children. The number of cases involving paternal negligence charges sharply increased in the mid-nineteenth century to constitute 40% of the 118 male-perpetrated child homicide cases tried between 1889 and 1913. The trial of James and Ann Still in 1832 was the first murder case involving paternal negligence tried at the Court. Baron Gurney drew upon a flaw in the indictment, in which the victim was not explicitly recorded as the child of James and Ann Still, to acquit the couple on the charge of manslaughter. It is likely that the couple's extreme poverty, apparent ignorance of appropriate infant care and Anne's allegedly limited mental capacity underpinned Baron Gurney's juridical discretion. Historians have presented compelling evidence that juridical discretion was regularly utilised to mitigate the severity of penal law in the early nineteenth century.¹⁷ In light of this evidence, it may be argued that the Court's reluctance to impose severe punishment upon poverty-stricken fathers charged under felony statutes for fatally

¹⁶ Lord Russell of Killowen, speaking in the Court for Crown Cases Reserved, observed that the inclusion of 'medical aid' in the Poor Law Amendment Act 1868 was inserted at the last minute in response to a need for greater specificity as to custodial liability for neglect exposed in the example of *R v Wagstaff* (1868) 10 Cox CC 530. See also *The Queen v Senior* [1899] 1 QB 283.

¹⁷ On the use of juridical discretion to mitigate the severity of penal laws in the early nineteenth century see Peter J. King, 'Decision-Makers and Decision-Making in the English Criminal Law, 1750 – 1830,' *Historical Journal*, 27 (1984) 25-58; Martin Wiener, *Reconstructing the Criminal: Culture, Law and Policy in England, 1830 - 1914* (Cambridge University Press, 1990); Martin Wiener, 'Judges v. Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth-Century England,' *Law and History Review*, 17 (1999) 467-506; David Taylor, *Crime, Policing and Punishment in England, 1750 – 1914* (MacMillan, 1998); Sir Edward Troup, *The Home Office*, 2nd ed. (Putnam's Sons, 1925); Deirdre Palk, *Gender, Crime and Juridical Discretion, 1780-1830* (Boydell Press, 2006).

neglecting their child was another factor in limiting the number of such cases tried as murders.

From the 1840s, the number of indictments for child murder involving allegations of paternal negligence increased dramatically. The expansion of the Court's jurisdiction as well as, from 1834 on, the increase in the number of Sessions held per year from four to twelve helped to swell the overall number of trials conducted at the Court. The expansion of the Court can partially account for a corresponding spike in murder trials involving paternal negligence. The increased prosecution of fathers for fatally neglecting their children can also be linked to the introduction of the Poor Law (Amendment) Act 1834 that first codified men's paternal responsibilities. However, relatively few cases were grounded only upon men's omission to provide parish relief. The rise in the prosecution of fathers for child neglect on felony indictments corresponded with a sharp increase in joint indictments of cohabitating couples for the manslaughter of children in their care.¹⁸

Growing concern over child welfare and increasingly fervent activism from the 1830s on culminated in the 'great awaking of the nation to a true and full recognition of the rights of children' and found expression in a raft of child welfare legislation introduced in the late nineteenth century.¹⁹ It is likely therefore that the upsurge in prosecutions was due to the convergence of a range of sociological and legal forces focused upon improving child welfare amongst England's most impoverished subjects. By the turn of the twentieth century heightened social fears of child cruelty, new ideas about childhood, gender and parenthood resulted in the more explicit articulation of paternal duties under English and Welsh law. Recognition of child neglect as a pressing social concern and the definition of paternal neglect as a criminal offence

¹⁸ This period, of course, also saw significant changes in the criminal justice system, including to the Murder Act 1752 with the introduction of the Anatomy Act 1832 and the reduction in number of capital offences.

¹⁹ Benjamin Waugh, 'Introduction' in William Clarke Hall, *The Queen's Reign for Children* (F. T Unwin, 1897). On the relationship between ideas of nationhood, citizenship and greater state intervention into parenting practices, particularly amongst England's poor, see Flegal, *Conceptualising Cruelty*, p.11; Linda Mahood, *Policing Gender, Class and Family* (University College London Press, 1995) p.2; Anna Davin, 'Imperialism and Motherhood', *History Workshop Journal* 5 (1978) pp.9 -65; Arnot, 'Infant Death, Child Care and the State,' pp.273-274; Michel Foucault, *Discipline and Punish: The Birth of the Prison* (Penguin, 1979) p.27; Jacques Donzelot, *Policing of Families* (John Hopkins University Press, 1979) p.92; Harry Hendrick, *Child Welfare. England 1872 – 1989* (Routledge, 1994); Marjorie Levine-Clarke, *Unemployment, Welfare and Masculine Citizenship. 'So Much Honest Poverty' in Britain, 1870-1930* (Palgrave MacMillan, 2015).

contributed to a greater willingness of the Court to prosecute fatal paternal negligence as a felony offence.

3 Gender and Class Considerations

There is some disagreement in the existing literature on child killings in Victorian England regarding the juridical treatment of men and women charged with fatally neglecting their children. Wilson's broad study of male-perpetrated child murder suggests a higher proportion of men received harsher sentences than women on joint indictments for homicidal child negligence. Studies by Daniel Grey and Margaret Arnot focused primarily upon maternal infanticide have indicated that mothers more often received harsher sentences for neglecting their children than co-accused fathers.²⁰ Such contradictory findings concerning the relative juridical treatment of men and women charged with fatally neglecting a child can be attributed mainly to different methodological approaches and variations in the scope of these studies. Wilson, Grey and Arnot offer varying perspectives on the proportion of men who received harsher sentences than their female co-accused on indictments for fatal child neglect. However, they all confirm a strong correlation between gender roles and the attribution of criminal culpability and show women were attributed greater culpability when their male co-accused were believed to have fulfilled obligations of provision.

This study reveals distinct gender differences in trial outcomes for parents jointly indicted for feloniously neglecting their children in the Court throughout the nineteenth century. As the following table shows, men and women jointly charged for neglect-based child killing were more likely to be acquitted of all charges than convicted.

²⁰ See Wilson, 'Mad, Sad or Bad'; Grey, 'Discourses of Infanticide' pp.262-315; Arnot, 'Gender in Focus' pp.201-244.

Table 1. Trial Outcomes for Men and Women Jointly Indicted for Neglect-Based Child Homicide at the CCC, 1800-1913.

	Both acquitted	Both convicted, equal sentence	Both convicted, lesser sentence	Solely convicted
Male co-accused	21	8	5	2

There was an appreciable difference in the proportion of women who received a harsher sentence than their male co-accused and a notable difference in the relative severity of the sentences of women found to be of greater culpability than their male co-accused. For example, the difference between sentencing outcomes for men who received harsher punishment than their female co-accused ranged from two to six months of additional imprisonment (with an average of 141 days additional imprisonment). In comparison, women were sentenced up to four and a half years longer than their male co-accused (with an average of 438 days further imprisonment).²¹

Table 2. Differential Patterns in Trial Outcomes for Men and Women Jointly Indicted for Neglect-Based Child Homicide Tried at the CCC, 1800 – 1913.

	Equal Culpability	Male No/Reduced Culpability	Female No/Reduced Culpability	
1800 – 1868	7 (65%)	3 (27%)	1 (9%)	11
1869 – 1888	6 (46%)	4 (31%)	3 (23%)	13
1889 – 1913	16 (55%)	11 (38%)	2 (7%)	29
	29	18	6	53

As reflected in the table above, 55% of men and women charged on a joint indictment for neglect-based child murder in the Court were found to have equal culpability (both acquitted or both convicted and received the same sentence). In 34% of successfully prosecuted cases, men were acquitted or received a lesser

²¹ The discretion of individual judges does not appear to have played a significant role in determining sentencing patterns from the 1830s, as a relatively diverse range of judges presided over these cases and those who did try multiple cases of neglect-based child homicide did not exhibit any particular sentencing patterns that deviated from the norm.

sentence than their female co-accused, while women were acquitted or received a lesser sentence than their male co-accused in only 11% of cases. These findings resonate with the existing literature that suggests that when parents were co-indicted for felonious child neglect, Victorian courts were more likely to return harsher sentences for mothers in split verdicts. Moreover, while the sample is relatively small, this study indicates that the likelihood that fathers would be found less culpable of fatally neglecting their children than co-accused mothers increased throughout the nineteenth century. This rise occurred concurrently with increased prosecution rates for child neglect in the late nineteenth century. However, this increased likelihood fathers would be found less culpable than co-accused mothers was disproportionately high relative to the number of mothers where the women attributed a lesser degree of culpability than co-accused fathers in the same period.

4 The Impact of Child Welfare Concerns

In line with increasing social anxiety about urban child welfare and the investigative and prosecutorial activities from 1884 on of the National Society for the Prevention of Cruelty to Children (NSPCC), prosecution rates for paternal negligence on felony indictments continued to rise throughout the late nineteenth century.²² A raft of child welfare legislation introduced in the late nineteenth and early twentieth centuries made the prosecution of child neglect easier and broadened the scope of prosecutable offences and sentencing options for those convicted of wilfully causing the death of their child through negligence. After 1889, fathers charged with child neglect were tried explicitly under the Prevention of Cruelty to, and Protection of, Children Act 1889, the Prevention of Cruelty to Children Act 1894, the Children's Act 1908 and more generally, the Offences Against the Person Act 1861. The Prevention of Cruelty to Children Act 1894 defined the scope of criminal child negligence as relating to

any person over sixteen years of age who, having the custody, charge or care of a child under the age of sixteen years, wilfully assaults, ill-treats, neglects, abandons or exposes, such a child, or causes or procures such a child to be

²² Benjamin Waugh founded what became the NSPCC in 1884, as the London Society for the Prevention of Cruelty to Children (London SPCC). For analysis of the influence of the LSPCC/NSPCC on the construction and prosecution of child neglect and of the neglected child see Behlmer, *Child Abuse*; Flegel, *Conceptualising Cruelty*; Lydia Murdoch, *Imagined Orphans: Poor Families, Child Welfare, and Contested Citizenship in London* (Rutgers University Press, 2006); Hugh Cunningham, *The Children of the Poor: Representations of Childhood Since the Seventeenth Century* (John Wiley and Sons, 1991); Carol Harlow and Richard Rawlings, *Pressure through Law* (Routledge, 1992) pp. 25-29.

assaulted, ill-treated, neglected, abandoned or exposed, in a manner likely to cause such child unnecessary suffering, or injury to its health.²³

This Act reflected common cultural expectations about gender and parental responsibility.

The expectation that men should be primary economic providers was encoded within the Act and in turn, influenced how a mother's guilt was determined. According to the Act

A person who undertakes the duty of supplying an infant with food and clothing is provided by the father with the means of doing so, is guilty of murder if he wilfully neglects so to provide it, and in consequences of such neglect the child dies; and where such father is conscious that the food is withheld, and does not interfere, he is guilty of manslaughter.²⁴

A woman's criminal culpability for the neglect of her children hinged firstly upon the father's presence (in his absence, it was up to her to both provide means of care and basic childcare) and his ability and willingness to provide for the family. Victorian expectations of paternal providence and protection were thus encoded in law, albeit couched in highly contingent terms.

The Court recognised barriers to the abilities of poor men to satisfy these expectations of them by regularly accepting poverty, ignorance and unemployment as grounds for mitigation of male neglect. At the same time shifting juridical trends beginning in the early 1890s reflect the Court's desire and willingness to punish fathers who were alleged to have *wilfully* neglected their paternal duties. In 1893 George Philip and Ann Matilda Broughton were tried for the neglect-based manslaughter of their four-and-a-half-year-old adopted daughter, Edith. George was acquitted as he only intermittently saw his wife and child; Ann was convicted on a reduced charge of neglect and served six weeks hard labour. After 1893, the majority of parents tried on joint felony indictments and convicted of fatally neglecting their children in the Court were convicted on a reduced charge of neglect, and most received sentences comparable with those convicted of a felony offence.²⁵ For

²³ Sir William Clarke, *The Law Relating to Children. A Short Treatise on the Personal Status of Children, and the Statutes that Have Been Enacted for Their Protection, including the Complete Text of the Prevention of Cruelty to Children Act, 1894: with Notes and Forms* (Stevens and Sons, 1894).

²⁴ Clarke, *Law Relating to Children*, p.29.

²⁵ This represents a shift in prosecutorial practices as before 1843, parents who were tried on a felony indictment for fatally neglecting their children in the Court were either convicted or acquitted as charged. If acquitted, the accused was occasionally tried again for the same

example, the average length of sentence of the total convictions for neglect-based manslaughter on joint indictments in this study between 1800 and 1892 was 11.2 months.²⁶ In comparison, of the thirteen out of nineteen cases tried on joint felony indictments between 1893 and 1913 that resulted in a conviction on a reduced charge of misdemeanour neglect, the average length of the sentence was seven months. Of the six cases tried on joint indictments that resulted in a conviction on a felony charge, three received sentences of up to six months imprisonment, while another three received the severest sentences in the study, ranging from four to five years' imprisonment. At the same time as the Court was acknowledging varying degrees of culpability and mitigation in the prosecution of fatal paternal negligence, the Court began to utilise a further range of available modes of punishment. Terms of imprisonment in second division and of penal servitude appeared after 1899, adding to the pre-existing range of punishments from fines to imprisonment with hard labour.

Men charged on an individual indictment for fatally neglecting their children were convicted with far less frequency than women solely charged with feloniously neglecting their children. Moreover, whether charged jointly or individually, fathers had almost a 50% chance of full acquittal when tried on a capital indictment. At the same time, however, trends towards increased prosecution rates from the late 1880s can be observed in the conviction rates for men who were solely indicted for the neglect-based manslaughter of their children. For example, only one father was convicted of the neglect-based manslaughter of his child from 1800 to 1874 (with seven acquittals in the same period). From 1875 to 1894, four out of ten felony indictments involving fatal paternal neglect resulted in a conviction. This rose between 1895 and 1913 to four in seven (just over 57%) convictions of fathers who were charged on an individual indictment.

Cases involving religion-based medical neglect account for the rise in prosecution and conviction rates for fathers charged with fatally neglecting their children. These cases are anomalous to the extent that in these particular cases, fathers were more often solely indicted for fatally neglecting their children than mothers. Moreover, when parents were jointly indicted for religiously motivated child neglect, fathers were more likely to be found of greater culpability than co-accused mothers.

child's death on a separate indictment for a misdemeanour offence, as opposed to receiving a conviction on a reduced charge on the original indictment.

²⁶ The average calculated on a count of 15 cases to the sum of 168 months sentenced to imprisonment.

All but one case of religion-based medical negligence involved members of the Peculiar People, an evangelistic religious sect whose membership was primarily drawn from the working class communities of London and Essex. The Peculiar People drew upon faith healing, rather than medical intervention to relieve or cure illness and disease.²⁷ Members of the Peculiar People were tried on thirteen of the 25 individual indictments and seven joint indictments for neglect-based manslaughter in this study. In the seven cases involving the Peculiar People tried on joint indictments, three cases resulted in acquittal, and four resulted in convictions. Fathers attributed greater culpability in three of the four cases that resulted in conviction; in the fourth case, the parents were assigned equal culpability. All twenty-two men were charged on a coroner's warrant following inquest findings that the provision of medical assistance could have prevented their children's deaths. While mothers who failed to render medical aid to their dying children were occasionally tried on joint indictments, only fathers were tried on individual indictments for religiously-based medical neglect. Cultural expectations of men's paternal authority over wife and children and the gendering of parental responsibility underpinned the greater culpability attributed to fathers for medical negligence.

Fathers whose children died as a result of their refusal to provide medical aid on religious grounds were more likely to be convicted of a felony offence than men whose paternal neglect was attributed to poverty or ignorance. However, they were less likely to serve a term of imprisonment when convicted. In fifteen cases in which male members of the Peculiar People were tried for the manslaughter of their children, seven resulted in a conviction, but only two men served terms of imprisonment. Four of the convicted men were released on recognisances. The sentence of George Thomas Senior, convicted twice in two years for the manslaughter of his children, was respited.²⁸ In contrast, only two of the eleven fathers tried for the neglect-based manslaughter of their children were convicted but both these men served nine-month prison sentences (one with and one without hard

²⁷ For more detailed accounts of the Peculiar People in London see Mark Sorrell, *The Peculiar People* (Paternoster Press, 1979); Shawn Francis Peters, *When Prayer Fails: Faith Healing, Children, and the Law* (Oxford University Press, 2008) pp.47-66.

²⁸ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 05 March 2018), Oct 1897, Thomas George Senior (t18971025-712); *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 05 March 2018), Nov 1898, Thomas George Senior (t18981121-48); The National Archives [henceforth TNA] HO 144/522/X72492, Nov 1898; TNA, CRIM 12/106, 10 Dec, 1898.

labour).²⁹ The relative leniency shown to fathers who were demonstrably respectable, good fathers in all respects, bar their omission to provide medical care to their sick children, is even more striking given that five of these men were repeat offenders. The Peculiar People confessed to deliberately denying their dying children medical assistance without expressing remorse, leaving the Court little choice but to convict. However, the men's reputation as otherwise loving, attentive and respectable fathers served to mitigate the severity of their sentences.

5 Class-Based Perspectives on Wilful Neglect, Ignorance and Poverty

Parish officials, medical doctors and London SPCC (from 1889, NSPCC) officers served as key witnesses in criminal proceedings against men accused of paternal negligence. It is well established in the existing literature that middle-class observers were invariably critical of the unsanitary housing conditions, improper dietary habits, excessive alcohol consumption and ignorant parenting practices amongst London's poorest residents.³⁰ At the same time, most public commentators agreed that greater knowledge of and ability to provide adequate nutrition, sanitation and medical care to satisfy children's developmental needs were often beyond the grasp of London's poor.³¹

Throughout the period, but especially from the late nineteenth century, tensions between middle-class standards of living and the grim realities of domestic life amongst London's poor were evident in Court proceedings. In particular, the Court grappled with the competing desire to punish wilful neglect of the most vulnerable members of London society and that to protect London's poor from persecution for not providing what was beyond their means to provide. In cases where it was clear that the accused's neglect of their parental duties caused the victim's death, the accused's only recourse was to argue that the neglect was not wilful or malicious, but was an effect of their ignorance, poverty or personal misfortune. Medical doctors and (N)SPCC officers often (inadvertently) supported the defence by confirming an

²⁹ In another case, a father was acquitted of felony charges, but convicted on a separate misdemeanour indictment for the death of the same child at a later date.

³⁰ See, for example, Frost, *Victorian Childhoods*; Grey, 'More Ignorant and Stupid'; Ross, *Love and Toil*; Davin, *Growing Up Poor*; Behlmer, *Child Abuse*.

³¹ George Sims, for example, wrote ambivalently of the perceived ignorance of London's poor. Sims referred to specific cases of child neglect that came before London's courts in a series of articles titled 'How the Poor Live' with Frederick Barnard published in *The Pictorial World* in 1881 and later in book form. See George Sims and Frederick Barnard, *How the Poor Live* (Chatto and Windus, 1883).

assumed general ignorance of London's poor to matters of health and hygiene – especially when it came to their children. For example, Antony Greener and Eleanor Frost's defence counsel did not deny that the couple caused the death of Antony's six-year-old daughter by failing to provide adequate food and medical care. Mr Hughes denied the neglect was wilful, however, attributing their omissions to ignorance, poverty and personal misfortune. If begrudgingly, this claim was supported by the attending doctor who conceded under cross-examination that 'poor people in their position are very ignorant of disease' and they may have wrongly assumed the child's condition was beyond medical help.³²

Tensions over the fine line between 'wilful neglect', parental ignorance, and the harsh realities of raising children for London's poor were not lost upon judges or juries in cases involving paternal negligence. Behlmer and Frost found interpretations of ill-treatment and wilful neglect not only varied between the (N)SPCC and its clients but amongst (N)SPCC branches and between the (N)SPCC and the courts.³³ Frost observed that 'many of the inspectors were obsessed with dirt and vermin [and] were likely to see dirt, vermin, or running sores as neglect, and they overemphasised this in some of their cases'.³⁴ This conclusion echoes that of Justice Bigham who, in summing up a case involving gross neglect in 1902, suggested that the jury regarded the evidence presented by the NSPCC 'with very great care, with the object of seeing whether or not it was exaggerated'.³⁵ Moreover, Bigham pointedly observed that NSPCC officers were 'always here to support the prosecution'.³⁶ A month earlier Bigham had directed the jury to acquit another case prosecuted by the NSPCC on the basis that 'the evidence was of a very flimsy nature'.³⁷

Although jurors sitting in criminal trials were propertied men, jurors sitting on the coroner's panel for Middlesex (the county where the majority of the cases tried at the Court originated) were typically respectable members of London's working classes. Criminal proceedings against working-class fathers for neglect of their children thus reflected specifically working-class expectations of fatherhood as much as they revealed middle-class assumptions about typical parenting practices amongst

³² *Old Bailey Proceedings Online*, (www.oldbaileyonline.org, version 7.2, 29 Nov 2017), October 1902, Antony Greener and Eleanor Hannah Frost (t19021020-776).

³³ Behlmer, *Child Abuse*; Frost, *Victorian Childhoods*.

³⁴ Frost, *Victorian Childhoods*, p.153.

³⁵ 'A Child's Death. Parents Acquitted', *Sheffield Evening Telegraph*, 27 November 1902.

³⁶ 'A Judge and the N.S.P.C.C. Remarkable Comments', *Framlingham Weekly News*, 29 November 1902.

³⁷ 'An Acquittal', *London Daily News*, 31 October 1902. The case referred to was that of Edward John Hewitt.

London's poor. The tensions between coroner's jurymen and fathers accused of neglecting their children were exemplified in the case of lighter-man George Reuben Price. Price argued that he was not accountable for the death by starvation of his three-month-old son as he provided his wife with sufficient money for household provisions. The Coroner, jury and medical witnesses all expressed shock and disgust at the baby's skeletal condition. Neighbours called as witnesses characterised Price's wife as a frequent drinker and pointed to the previous death of eight or nine siblings (neither parent could remember exactly how many children they had) as evidence of maternal negligence. Despite his wife's dubious mothering capabilities, Price insisted that he 'trusted [his] wife all these years, and thought that she would look after it'.³⁸

Members of a Coroner's jury often expressed frustration towards fathers who failed to intervene in their wives' household mismanagement, despite the visibly dire state of their domestic affairs. The heated exchange between Price and the jurors during his daughter's inquest reflects tensions over contested boundaries of working-class men's paternal responsibilities.

The Coroner: When did you first notice the child's emaciated condition?

Witness: Not at all. I always considered it well cared for.

A Juror: This child could not have wasted away in a week nor yet in a month.

Why didn't you call in a doctor?

Witness: Am I to neglect my work?

The Juror: Your child's life is far more valuable than your work. [Hear, hear].³⁹

The jury swiftly returned a unanimous verdict of manslaughter against Price and his wife. At Price's committal hearing the Mayor explained 'The case against you is not quite the same as that against your wife. But, as a father, you have got your responsibilities. You are committed to trial for neglecting the child.'⁴⁰ In the trial, the Court jury, by contrast, did not believe that Price's failure to provide medical attention for his son and to ensure his son had adequate care constituted manslaughter. Price was acquitted, while his wife was convicted as charged and sentenced to four years penal servitude.

Although parents charged with fatally neglecting their children were, more often than not, acquitted on felony charges, it was not unusual for the Court to express its censure of the parents' conduct and to point out the moral culpability for their

³⁸ 'Plaistow Starvation Case,' *Lloyd's Weekly Newspaper*, 8 September 1895.

³⁹ 'A Shocking Story. Verdict of Manslaughter at Plaistow. 'Sheer Starvation',' *Chelmsford Chronicle*. 6 September 1895.

⁴⁰ 'Plaistow Starvation Case,' *Lloyd's Weekly Newspaper*, 8 September 1895.

children's death of these negligent parents. Alfred and Kathleen Waters, for example, were acquitted of the manslaughter of their daughter Violet, but formally censured for their cruel and negligent conduct towards their children. Kathleen Waters was known for her habit of leaving her children locked in a squalid room when she went out drinking with her husband. In May 1883, Kathleen deserted her unemployed husband on account of his idleness. Leaving while her husband was out, she took most of their furniture, but left her children unsupervised and in an unheated room. Alfred came home at midnight, saw that his wife and furniture were missing and his sick daughter Violet was huddled under a blanket on a couch. He had then promptly gone out again, leaving the children in the cold room. Concerned neighbours had alerted the police, and the children had been removed to the workhouse, but Violet had died less than a week later. Locking children in or out when parents could not arrange care and needed to work outside of the home was not unusual, but leaving young children, particularly ailing children, unattended for long periods to drink, rather than work, certainly exceeded the boundaries of culturally accepted practice.⁴¹

Mr Justice Hawkins, while discharging the prisoners, sought to impress upon the Waters' that:

They must not think that they left the dock without a stain on their character, for, in his judgement, each of them had shown the most scandalous and disgraceful conduct towards those children, and, although their death was not from any criminal act of theirs, their conduct had been inhuman to the last degree. He only wished it was in his power to punish them, but it was not.⁴²

At the same time as Hawkins lamented his inability to convict on the basis of the Waters' immoral disregard for their children's welfare as a criminal offence, he – in response to an observation from the jury – acknowledged also that 'at least 75 per cent of the crime in this country was due to drink'.⁴³ The press too reported the case as typically 'Sad Revelations of Life in London',⁴⁴ drawing implicitly on assumptions that the children of London's poor routinely suffered the twin ravages of parental drunkenness and ignorance of 'proper' child-care practices.

⁴¹ Davin, *Growing Up Poor*, pp. 57, 96-97.

⁴² 'Cruel Conduct of Parents. 75 Per Cent of Crime Due to Drink', *Manchester Courier and Lancashire General Advertiser*, 5 June 1883.

⁴³ 'Cruel Conduct of Parents', *Manchester Courier*, 5 June 1883.

⁴⁴ 'Sad Revelations of Life in London,' *Dundee Evening Telegraph*, 8 February 1883.

6 Working-Class Perspectives on Child Neglect Amongst London's Working-Classes

The neighbours and landlords of poor Londoners charged with neglecting their children appeared regularly as witnesses for the prosecution. They were uniquely positioned to provide commentary upon the reputations of the individual men within the community, including their domestic arrangements and interactions with their children in the 'privacy' of the family home. Privacy, as evidenced by the detailed knowledge neighbours often had of each other's domestic affairs, was unlikely to be had in the cramped multi-tenanted dwellings commonly inhabited by London's working classes. Court transcripts reveal tensions over child welfare within London's working classes were complicated further by issues of gender and class when women challenged men within their community for failing to perform their manly duties. Neighbours intervened in cases of child neglect by feeding, cleaning or providing medical assistance to children; and also took it on themselves at times to admonish negligent parents for grossly neglecting their children.⁴⁵ Testimony presented by the neighbours of the accused in criminal proceedings suggests that many neighbours waited for someone else to alert authorities to suspected child neglect before speaking out against the accused parents. Louisa Platt, for example, testified at Joseph Haynes criminal trial that she had not told authorities of the Haynes' 'ill-usage' of the boy in their care until someone else had 'taken it up' after the boy's death. She had felt that 'then it was [her] place to come and speak'.⁴⁶ Sometimes neighbours were silent because they feared the impact on themselves and their families of violent parents, at other times they did not think it was their place to interfere.

Some neighbours, especially landlords, were more prepared to call in the authorities. Susannah Jones testified she had alerted the parish authorities to Weedon's neglect and violence towards his children.⁴⁷ Their landlady precipitated criminal proceedings against John Purcell and Margaret Flynn after warning them that they would 'get into a great deal of trouble' if Margaret continued to neglect their baby.⁴⁸ Mary Ann Lemon reported recently-widowed William Nottingham to the Union Relieving

⁴⁵ Ellen Ross, *Love and Toil*; Davin, *Growing Up Poor*, pp.36-37, 39-43.

⁴⁶ *Old Bailey Proceedings Online* (www.oldbaileyonline.org , version 7.2, 13 Feb 2018) June 1893, Joseph Haynes and Elizabeth Haynes (t18930626-617).

⁴⁷ *Old Bailey Proceedings Online* (www.oldbaileyonline.org , version 7.2, 13 Feb 2018) November 1855, James Weedon (t18551126-42).

⁴⁸ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 13 Feb 2018) Nov 1870, John Purcell and Margaret Flynn (t18701121-36).

Officer after he refused to heed her warning that his eldest daughters, whom he charged with the care of his infant while he was at work, were 'giddy' girls and grossly incapable of caring for the baby.⁴⁹ The baby died while Nottingham was remanded for neglecting the child and the charges against him were upgraded to manslaughter.

Depositions of women who publicly accused men of neglecting their children point to the complex intersections of class and gender in relations between men and women within London's working classes. Elizabeth Smith gave scathing testimony against her tenant, Frederick Miller, in his 1901 trial for the wilful neglect of his eleven-month-old son Frederick.⁵⁰ According to Elizabeth, she had confronted Frederick and threatened to take control of his finances because he appeared too ill-equipped and irresponsible to manage his paternal obligations himself. Elizabeth alleged she had repeatedly warned Frederick that if he did not give the money he earned to his wife, she would 'go to the relieving officer and ask him to make you bring it home and give it to me for the children'.⁵¹ Fanny Kitchener, the wife of the local Postmaster, told the Court of her frustrated attempts to assist Charles Stewart Russell's children before the death by starvation of his five-year-old son. Fanny recalled her affront when she visited Russell's home and he hospitably offered her a glass of stout: 'Certainly not, your children want something', Fanny claimed to have replied.⁵² No doubt Fanny's indignation was further roused by Russell's refusal to apply for parish relief or accept her offer to buy provisions for the children herself. As the wife of a Postmaster, Fanny was a well-respected occupant of the middling ranks in Victorian London's working-class society. Her pointed criticisms of the living conditions created by the Russells, and his refusal to submit to charitable or parish relief speaks to the cultural distance between individuals positioned across the spectrum of working-class experience.⁵³

⁴⁹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 13 Feb 2018), Aug 1874, William Nottingham (t18740817-537).

⁵⁰ Frederick Miller and his wife Ann were charged on several accounts, including for the manslaughter of their daughter Dorothy, but were acquitted on that charge when the prosecution offered no evidence. The couple had two other children, and the Court also considered a charge against them of wilful neglect of their son, Frederick. *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) April 1901, Frederick Miller and Margaret Miller (t19010422-356).

⁵¹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) April 1901, Frederick Miller and Margaret Miller (t19010422-357).

⁵² *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) February 1893, Charles Stewart Russell and Elizabeth Hannah Russell (t18930206-271).

⁵³ *Ibid.* On the complexities of working-class identities and notions of respectable working-class manhood, see Davin, 'Growing Up Poor', p.71; Peter Bailey, "'Will the Real Bill Banks Please Stand Up?' Towards a Role Analysis of Mid-Victorian Working-Class Respectability', *Journal of Social History*, 12 (1979) 336-353; Keith McClelland, 'Some Thoughts on

Throughout the period from 1800 to 1913 prisoners regularly accused those whose allegations of neglect initiated criminal proceedings and neighbours who testified for the prosecution of acting out of spite. For example, in 1855 William Bull delivered an extensive statement of defence in which he alleged the charges against him were the result of 'spite between me and my neighbours'.⁵⁴ According to Bull, he had owed a neighbour a small sum of money which had been borrowed when he was out of work. The relationship between the two had soured when Bull could not pay his debt. Bull's wife had died five months earlier and he had fallen into arrears shortly after this when he could not find work. Of his three children, one went to live with Bull's father and two were cared for by a girl who lived with the Bull household. The youngest child, Frederick, was very ill and died. Two days later Bull's neighbour sent a broker to seize the contents of Bull's rooms and informed the beadle of his suspicions that Frederick had died as a result of neglect. Bull responded by collecting the beadle from his residence and taking him to the family physician, Dr Baker, who stated his belief that the death was due to consumption. Bull told the Court:

the beadle said he should write to the Coroner on the subject, and then it was delayed a whole week without any notice being taken of it, and I was calling at the beadle's house every morning; the Inquest was on the following Saturday, and the very man that seized my things was on the Jury; they were all decided except that one man, and he said he would not have it settled in that way; I have been told since that I ought not to have had such a man on the Jury, but I did not know anything of it then, not having had such a thing happen to me before.⁵⁵

Justice Wightman ruled that the charge against Bull was entirely unfounded and the jury immediately acquitted him.

The complicated case involving the Socialist Walter Gammon further points to how claims of perjury and prejudice were not typically presented as a defence, to act as sole grounds of acquittal, but invocation of these could serve to weaken the case made against the individuals concerned. Gammon was charged on a Coroner's warrant with the murder of his four-month-old daughter. The Coroner's court attributed her death to Gammon's failure to seek parochial relief when he could not

Masculinity and the 'Representative Artisan'", *Gender and History*, 1 (1989), 164-177; Gertrude Himmelfarb, *Poverty and Compassion: The Moral Imagination of the Late Victorians* (Knopf, 1991); Gareth Stedman Jones, *Outcast London: A Study in the Relationship between Classes in Victorian Society* (Verso, 2013); Patrick Joyce, *Visions of the People: Industrial England and the Question of Class, 1848-1914* (Cambridge University Press, 1991).

⁵⁴ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 13 Feb 2018) Jan 1855, William Bull (t18550129-279).

⁵⁵ *Ibid.*

otherwise provide appropriate food or medical care for her. Gammon's defence counsel argued that his case had been unduly prejudiced by leading newspapers that exploited and inflamed political hostility with such headlines as 'Murderous Socialism' and 'A Life for a Vote'.⁵⁶ The defence identified ill-feeling towards Socialists amongst Court officials as well as the existence of a personal grudge between members of the Islington Coroner's Office and the Gammons' attending doctor as prejudicial factors that contributed to the Coroner's ruling against Gammon. Controversy surrounded the irregular practice of the attending doctor having been excluded from the post-mortem, along with allegations the post-mortem results had been leaked to the Coroner's jury. It was also claimed that the Coroner's jury had been stacked with local shopkeepers and others known to be anti-socialist. These political frictions fuelled the emotions over conflicting testimony regarding the cause of Constance Gammon's death and over her father's character. Perhaps unsurprisingly given the controversy over the alleged prejudicial handling of the case at summary level, Mr Mathews offered no evidence for the prosecution and Gammon's case was dismissed.⁵⁷ Of course, not all the men who alleged that charges of neglect against them were born out of neighbourhood feuds garnered the sympathy of the Court. In 1904 James Sexton and his wife Mary were convicted on a lesser charge of neglect, but each was sentenced to eighteen months hard labour by Justice Ridley as an 'exemplary punishment'.⁵⁸ Justice Ridley rejected the claims made by the Sextons that their neighbours had perjured themselves to satisfy a neighbourhood grudge against the couple and attributed the Sexton's derelictions of parental duty to drunkenness.

7 Maternal Failings as Mitigation for Paternal Negligence

Many men challenged allegations of paternal negligence by arguing that their parental duties did not extend to child care, particularly the care of babies, and they should not be held accountable for the maternal failings of their wives. Judges and juries often expressed contempt for the lack of paternal feeling exhibited by indifferent fathers. At the same time though, the Court consistently meted out lenient sentences or acquittals for men who employed this defence. As Arnot has observed, alongside 'bereavement and poverty', where the transgressions of maternal figures who exceeded the boundaries of appropriate femininity, these featured heavily in

⁵⁶ 'Murderous Socialism' *Daily Mirror*, 23 August 1905; 'Life for a Vote' *Daily Mail*, 24 August 1905.

⁵⁷ Gammon was charged with aiding and abetting men taking collections for the unemployed of Edmonton two months later. Once again, the charges against him were dismissed.

⁵⁸ 'Gross Child Neglect', *London Evening Standard*, 29 July 1904.

'narratives ameliorating the responsibility of the male killers'.⁵⁹ Arnot's analysis resonates with my finding that a range of maternal failings was presented as mitigating factors in male defences to charges of paternal neglect. The Court regularly accepted, or at least partially accepted, claims by men that their ability to perform their fatherly duties were undermined by the failings of their wives to perform their maternal role, or by a maternal absence (particularly in the case of widowed fathers).

In 1894 William Brown repeatedly responded to concerns raised by parish officers and NSPCC investigators over the sick and neglected condition of his daughter with deflection that it was 'not his fault'. He insisted that he could not help it as 'it is [his] wife's business', what he described as 'the misses's [sic] look out'. The outcome of the criminal trial of the pair reflects the Court's ambivalence towards fathers who contested responsibility for their children's care. Both William and Sarah Brown were convicted of the wilful neglect of their daughter Julia, causing her unnecessary suffering. However, while Sarah was sentenced to eighteen months hard labour, William was released on his recognisances.⁶⁰ In 1901, William Lillywhite also rejected the notion that it was a father's responsibility to ensure that those he entrusted with their care did not neglect his children. He argued that he had always provided as much money as he could and did not think that it was his fault if the children were starved and ill-kept as his wife had not asked for more money. When the Court expressed scepticism that Lillywhite was unaware of the children's condition, given that he was regularly out-of-work and lived in the same rooms as the children, Lillywhite retorted that he

had only had a few days' work for some months, but had given his wife as much as he could, and had heard no complaints about want of food; and that he thought it was his duty to be out looking for work, and not washing the children; that he had not seen vermin on them, or noticed that they were in a filthy state.⁶¹

His wife, Ellen, pleaded guilty to charges of unlawful and wilful neglect, and was sentenced to five months' hard labour.⁶²

⁵⁹ Arnot, 'Infant Death', p.56.

⁶⁰ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) October 1894, William Brown and Sarah Brown (t18941022-826). Again a manslaughter charge had been made against the parents but no evidence given, leading to their acquittal on that charge.

⁶¹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) September 1901, William Lillywhite and Ellen Lillywhite (t19010910-698). The Court directed the jury to find William not guilty.

⁶² *Ibid.*

Defences based on men's disavowal of a paternal duty of care were more likely to secure an acquittal in cases involving the death by starvation of an unweaned infant. In these cases, more often than not, questions of culpability revolved around whether or not the mother was physically capable of breastfeeding the infant. In 1865 Edward Stack successfully argued that he was not responsible for the death of his four-month-old unweaned son as his wife was capable of breastfeeding him, but had refused to do so.⁶³ In 1887, William Neale also evaded conviction for the manslaughter of his infant upon evidence that his wife regularly left their unweaned baby alone for much of the day while she drank with 'bad women.' Nevertheless, the jury did consider him 'to some extent deserving of censure for not insisting upon the child being taken to the workhouse'.⁶⁴

While some women's neglectful mothering was interpreted as calculating and malicious, in most cases maternal negligence was primarily attributed to ignorance, incapacity, poverty or the failings of their menfolk as husbands. In some cases, mothers claimed that their husband's refusal to adequately provide food and clothing for them hindered their ability to care for their children, pointing to the intrinsic relationship between a man's responsibilities as a father and husband. Charles Parr, an intermittent labourer who heavily drank when paid, withheld wages from his wife to the point that she did not have sufficient clothing to go out in public. Her sister, their landlady, eventually took Parr's desperately ill child to the hospital on the mother's request, but he died a week later. Parr's wife and her sister testified that Parr had dismissed their repeated appeals for Parr send for a doctor or to provide his wife money to purchase food and seek medical care for the child.⁶⁵

Culpability in cases in which jointly accused parents based their defences on their co-accused's dereliction of parental duties was typically obscure and depended much on the testimony provided by neighbours and intimate others to confirm or deny the spousal allegations. Women charged that their husbands drank away their wages and left little to maintain the children; then men claimed they had provided ample

⁶³ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) September 1865, Edward Stack and Honora Stack (t18650918-884). Edward Stack was found not guilty, but Honora Stack was found guilty of manslaughter and given a four month's sentence. For common law precedence on this see Russell, *Treatise on Crimes and Misdemeanours*, pp.493-494.

⁶⁴ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 5 July 2017), January 1887, William Joseph Neale and Alice Neale (t18870131-253).

⁶⁵ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 13 Feb 2018), September 1886, Charles Parr (t18860913-986).

money to maintain the children but insisted that their drunken wives had wasted the money on drink. Some alcoholic mothers did not deny that they had squandered the family's income and neglected their children's care but sought to claim a mitigation of their conduct by counterclaiming they had been driven to drink through their husband's mistreatment of them. In 1895, for example, John Brown argued that he had provided plenty of money for his wife, Mary, to care for their six-month-old son, but she was a heavy drinker and had used the money to buy whisky. Mary did not deny she was a drunkard, but alleged Brown had driven her to drink through his ill-treatment of her, claims substantiated by testimony from their neighbours. After a short deliberation, both parents were acquitted by the jury.

In another case, Ann Emmings was absolved from responsibility for neglecting Charlotte Jones, the one-year-old daughter of her partner Frederick Jones. Emmings had cared for Charlotte since the death of his wife, nine months earlier. Emmings alleged she was forced to leave Charlotte in the care of her eleven-year-old daughter while she went out to work, because Jones did not provide her sufficient money to maintain the children. The case against Emmings was weak, given that she was not the child's mother, and was not legally married to her co-accused. It helped also that witnesses supported her claim that Jones had failed to provide sufficient means of care. The testimony of the women in the neighbourhood was that Jones was a 'blackguard', one who received good wages as a factory worker, but spent much of it on drink, and that he had similarly withheld wages from his wife. This evidence was sufficient to secure an acquittal for Emmings, while Jones received an eighteen-month prison sentence upon his conviction for manslaughter.⁶⁶

Occasionally single and widowed fathers were charged with manslaughter for failing to provide sufficient care or means of care for their children. Children without a maternal caregiver were particularly vulnerable when their fathers were forced to either leave them without carers or without suitable carers, in order to maintain employment as they would otherwise have to miss work opportunities to tend to their needs. The relatively few single fathers charged on felony indictments for neglecting their children were all acquitted by the Court. This is in stark contrast with the number of trials and the actual trial outcomes when single mothers were charged with feloniously neglecting their children.⁶⁷ The testimony of neighbours who appeared as

⁶⁶ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) November 1875, Frederick Jones and Ann Emmings (t18751122-37).

⁶⁷ See, for example, Grey, 'Discourses of Infanticide', pp. 262-315; Arnot, 'Gender in Focus', pp. 201-244.

witnesses in the case of single or widowed fathers suggests that the Court's sympathy for single fathers could be at odds with community expectations that fathers should provide adequate care for children in their mother's absence. In 1865 John Hyland was allowed to plead down a manslaughter charge to a misdemeanour neglect charge, despite horrific evidence being provided in the Court of his daughter's starved and neglected condition. Hyland admitted he had grossly neglected his children after his wife's death and that he should have sought medical aid for his daughter. He attributed his negligence to his inability to juggle the competing demands of daily child care and employment.⁶⁸ Charles Hardy was similarly acquitted of manslaughter charges over the death of his six-year-old son, notwithstanding the compelling prosecution testimony of neighbours and medical witnesses that his tubercular son wasted away in the absence of sufficient nourishment, medical attention and care. Hardy successfully claimed in Court that he had done his best as a single father by maintaining himself in regular employment and that he could not be held responsible if his eleven-year-old son had neglected to care for his younger brother during the absence of their father at work.⁶⁹ The following year, the noted QC Montagu Williams went so far as to withdraw from prosecution of George and Emily Warne after it became evident Warne had paid for an eleven-year-old girl to care for his baby while his wife was in prison.⁷⁰ Yet the autopsy findings that indicated the baby starved to death was corroborated by witness testimony presented at the Coroner's inquest. This was to the effect that all Warne's children had been grossly neglected and that Warne had only hired a nurse-girl after the neighbours had complained.

Conclusion

Responses to paternal neglect as a cause of child death in the Court, press and wider community were marked by ambivalent attitudes to paternal prerogatives and male authority. Accusations of paternal negligence within working-class communities reveal diverse and often conflicting beliefs about paternal prerogatives and obligations, particularly as they related to acceptance of parochial relief and provision of medical aid. This article provides critical analysis of the mobilisation of class and

⁶⁸ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) February 1865, John Hyland (t18650227-312)

⁶⁹ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) February 1880, Charles Hardy (t1880913-491)

⁷⁰ *Old Bailey Proceedings Online* (www.oldbaileyonline.org, version 7.2, 15 Jan 2019) September 1881, George Warne and Emily Warne, (t18810912-774). Emily Warne had been charged with her son's manslaughter despite her absence for the last 21 days of his life on the basis of her negligent mothering up to the time of her imprisonment.

gender in legal and cultural responses to paternal neglect. I have shown that relational concepts of class and gender underpinned community-based and juridical understandings of parent's moral and legal culpability for the fatal neglect of their children. The Court made links between paternal negligence and socio-economic conditions reflecting cultural understanding of child neglect as being a product of poverty as much as one of poor parenting. However, the Court's sympathy for the downtrodden working-class father rested upon the pillars of working-class virtues of industriousness, thrift and moderation. Fathers whose poverty stemmed from improvidence, idleness or intemperance were treated more harshly than those whose paternal failings could be attributed primarily to socio-economic forces beyond their control.

The focus on working-class perspectives on paternal neglect, drawn from primarily from the recorded depositions of working-class witnesses and defendants, redresses an emphasis on middle-class perspectives on male-perpetrated child homicide. It reinforces historical arguments that upper- and middle-class members of the Court, philanthropic investigators and parish authorities could hold unrealistic expectations of provision or assumed lower standards of paternal care and affection amongst London's poor. At the same time, this study highlights the extent to which working-class witnesses supported charges of paternal neglect, providing critical testimony concerning the accused's failings as a husband and father. Courtroom testimony of neighbours, workmates and family members highlights the extent power relations amongst London's working classes did not strictly adhere to dichotomies of gender and social position. Women from the lowest to middling ranks of London's society regularly censured, threatened and reported working-class men who neglected their families. Often women occupied relative positions of power over the accused men as landladies and respected members of the community, but this was not always the case. The testimony of close-knit community members weighed heavily in the Court's determination of whether a father was able but unwilling to provide or simply was unable to provide for his children. The nuances of working-class expectations of fatherhood identified in this study provide further perspectives on Victorian concepts of English masculinity and fatherhood.

This study has shown that legal definitions of paternal duty and cultural understandings of a working-class man's place in the home changed over the nineteenth century and were subject to sustained contestation. By the late-nineteenth century at least legal definitions of paternal neglect corresponded with expectations

within working-class communities that paternal duty extended beyond financial provision to provision of care. Fathers were expected to provide adequate daily care for their children in their mothers absence and, when a mother was present but neglectful, recognise and remedy his wife's negligent mothering. At the same time, men's resistance to and negotiation of Victorian standards of working-class fatherhood is evident throughout this investigation of paternal negligence as a cause of child death. The Court's ambivalence towards men who questioned the limits of paternal responsibility points to tensions within nineteenth-century English culture concerning working-class masculinity and conflicting ideals of men's place in the home.

Studies of family in Victorian England have increasingly shown a range of ways binarised gender roles were contested and negotiated in working-class family life. Historical scholarship on child homicide in Victorian England has demonstrated that the courts were sites of contestation and reinforcement of contemporary expectations of class and gender. This current investigation of paternal neglect as a cause of child death contributes to this growing body of literature, exploring another aspect of Victorian fatherhood and offering new perspectives on legal and cultural responses to paternal neglect in Victorian England.